



Department of Correction
State of Delaware
Internal Affairs Unit

MEMORANDUM

TO: Ronnie E. Drake, Director

FROM: Michael J. Tigue, Investigator

INCIDENT: Visitation - Policies - Security

DATE: February 18, 2011

SUBJECT: Representative John Atkins
Mr. John Atkins Son – Jared Atkins Age 10+/-

LOCATION: Sussex Correctional Institution
4-12 Shift

I.A. CASE FILE #: 12-056

DATE ASSIGNED: 09/13/2012

DATE COMPLETED: 10/29/2012

On September 13, 2012 writer was assigned to investigate circumstances surrounding Representative John Atkins and his son Jared being permitted access to Sussex Correctional Institution on February 18, 2011 on the 4-12 shift.

Writer reviewed the News Journal account of the incident and the subsequent video supplied by the News Journal. See the attached copy of the news articles by the News Journal.

Writer contacted S.C.I. Business Office supervisor, Mrs. Helen Lowman, and requested that the logbooks be pulled from archives for February 18, 2011. The books requested were for the front entrance visitor logbook, Central Control, Watch Commander's Office, Pretrial Lt's Office, Pretrial Sgt.'s Office, and the Receiving Room.

The visitor logbook for the front entrance was found to be missing. See the explanation for the tracking of the visitor's logbook by Cpl. Peter Dirks Jr. As of the date of this report the visitor's logbook can not be found.

On September 17, 2012 writer learned of the radio broadcast of Representative John Atkins on station 105.9 Talk of Delmarva. Writer contacted Mr. John Painter with DOC Media Relations and requested that he contact the radio station for a possible copy of the interview.

To date writer has not received a copy of this radio broadcast.

The following are policies/programs regarding various visitors' access to Sussex Correctional Institution that were in place as of February 18, 2011.

Bureau of Prisons Policy: 8.48 Dated 09/22/2010 signed by Bureau Chief Michael Deloy in part reads as follows:

Purpose: To establish criteria for authorized entry into a correctional facility by vendors, professional visitors or for participation in offender visitation activities or volunteer programs services.

Definitions:

F. Professional Visitors: Attorneys, elected Officials, visiting dignitaries, or tour groups.

H. Professional Visitors:

The Governor, Lieutenant Governor, current members of the Delaware General Assembly, and current members of the Delaware Council on Correction are approved for entry at any time without advanced clearance.

All other visitors must have prior authorization to enter a correctional facility.

The facility Warden will determine which professional visitors require completion of Security Clearance Application Form.

Inmate Visitation:

Visitors are limited to three persons per visit. There is no age limit.

Visits are in the Visitor Room Only.

Visits for Medium, Minimum and Key Inmates are granted 1.5 Hours a week.

Visits for Pre-Trial Inmates are limited to (1) 45 minute visit per week.

Visits for Sussex Boot Camp in the Intermediate Platoon are permitted one, 45-minute visit every two weeks.

Special Visits for Inmates are given every six months, unless a serious emergency arises that can be substantiated with documentation.

Prison Insight for Kids (P.I.K.):

Cpl. Veronica Watson provided writer with the below procedures utilized in the P.I.K. Program

Procedure:

1. Permission slip must be signed by Parent or Guardian.
2. Once permission slip is approved by Security Superintendent. A date and time is set for tour.
3. Upon arrival they are directed not to have anything on their persons and we explain the scan and pat process.
4. They go through the scan as visitors. They must take off their shoes, and their belts and they are pat searched.
5. There are five to six officers with the children at all times. If it is a large group there are more officers. On average there are 7 to 10 children in each group. Inmates tell the kids why they are here and how much time they are serving. There are no Sex Offenders.
6. We tour Key South, Medium, Minimum and MSB if the buildings are available. The tour ends in Merit Classroom. We debrief and answer any questions that the youth may have. Our groups do not always consist of at risk youth; we have schools and church groups that also come in.
7. The children's parents and/or Probation Officer often accompany them.
8. Once the tour is completed, they are escorted back outside the Gatehouse.

We have never toured Pre-Trial building and/or Receiving.
Thanks, Cpl. Watson.

Investigation:

Writer contacted Lt. Joseph McGrath, Scheduling Officer, for a copy of the schedule for February 16 and 18, 2011. See attached schedules.

On September 18, 2012 writer scheduled the following interviews with S.C.I. staff associated with the visitation. Union Representation was afforded to the officers at their choice. Most of the interviews were recorded with the exceptions of those noted.

Warden G. R. Johnson	09/19/2012	Warden
S/Lt. Tracey Harris	09/19/2012	Watch Commander 02/18/11
S/Lt. Dean Blades	09/19/2012	UM Key Lieutenant
Lt. Marvello Wise	09/19/2012	Escort Assigned 02/18/11
Lt. Billy Edwards	09/19/2012	Unassigned Lieutenant 02/18/11
Sgt. Don Smith	09/20/2012	Pre-trial Sergeant 02/18/11
Sgt. Allen Adams	09/20/2012	Receiving Rm. Sergeant 2/18/11

Cpl. Sam Walker	09/20/2012	Pre-trial rover 02/18/11
Cpl. Brian Clarke	09/20/2012	Pre-trial rover 02/18/11
C/O Hunter McCary	09/20/2012	Pre-trial rover 02/16/11
C/O Samuel Hastings	09/20/2012	Pre-trial Unit#1 02/16/11
Lt. David Vinson	09/20/2012	Watch Commander 02/18/11
Deputy Warden Linda Valentino	09/20/2012	Deputy Warden (DW)
C/O Steve Marsh	09/21/2012	Pre-trial Unit #4 02/16/11
C/O David West K-9	09/26/2012	K-9 02/18/11
Sgt. Dee Stranick	09/26/2012	Front Door 02/18/11
Cpl. Veronica Watson	09/26/2012	E-Mail Document P.I.K
Cpl. Peter R Dirks Jr.	09/27/2012	E-Mail Front Door Log Books
C/O Hunter McCary	10/03/2012	Pre-trial rover 02/16/2012
Captain Michael Atalian	10/03/2012	Watch Commander 02/16/2012
Cpl. Frank J. Steiner	10/05/2012	Front Counter 02/18/2012
Representative John Atkins	10/18/2012	Professional Visitor

All staff that were interviewed are listed above. Those staff members not summarized below had no additional information to add to the investigation. Their audio disks are available for review.

Interview: Warden G. R. Johnson
September 19, 2012 10:26 a.m.
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned from the above interview.

Warden Johnson recalled that he received a telephone call from Representative John Atkins on February 17th or 18th, he was not sure. Representative Atkins said, "You know I come up and visit SCI occasionally and every night when I go home my son asks, "Where have you been daddy?" Atkins stated his son asked him if he could come up some time and see what the inside of the jail looked like.

Initially Warden Johnson told Representative Atkins, "I am swamped right now; let me give some consideration to this and I'll get back to you." Warden Johnson asked how old the child was. Warden Johnson further stated, "If it is permitted a waiver had to be signed releasing D.O.C. from any liability." Warden Johnson told Representative Atkins he would get back to him.

Warden Johnson stated at the time the Deputy Warden was new, and there was no Security Superintendent assigned. His secretary was also new. Warden Johnson stated there was a lot going on.

Warden Johnson subsequently approved the visit. Warden Johnson was asked if he solicited counseling prior to making the decision to allow the visit. He stated he did not recall if he did or did not.

Warden Johnson stated the visit was not historically way out of the ordinary at S.C.I.

Warden Johnson was asked if this is true even with a child of ten. He stated historically, implying it was not way out of the ordinary, people just don't show up unannounced and take a tour.

Warden Johnson approved the visit with certain conditions attached. A waiver would be signed and a tour guide would be assigned to conduct the tour.

Warden Johnson spoke with Lt. Tracy Harris explaining the visit with the conditions. Lt. Harris was to obtain the waiver and assign the tour guide.

Warden Johnson was asked if there were any time limitations given to the tour. He stated that he did not specify a time limitation.

Warden Johnson was asked if it was unusual to have a five hour stay. He said, "Yes, it would be unusual; highly unusual."

Warden Johnson was asked if he had the opportunity to view the video presented by the New Journal. He said, "Yes."

Warden Johnson was asked, after viewing the video, does he have any concerns regarding what he viewed on the video. Warden Johnson expressed his concerns with the following comments:

1. The duration of the tour.
2. The amount of time spent in the Receiving Room vs. the amount of time dedicated to an actual tour as it was requested to be.
3. When the Representative and his son first walked into the Receiving Room, there was no courtesy from the staff suggesting safety for the Representative and his son; that they should stand up behind the counter. It appeared like Representative Atkins was commanding and just went on his own route. (Writer interpreted Warden Johnson's comment to mean that staff did not display appropriate courtesy and respect for Representative Atkins.)
4. There was activity back there (Receiving Room) with Inmates moving around, I am not comfortable with a child back there. If John Atkins as a legislator and a member of the Council on Corrections wants to see how we operate on a daily basis is one thing. A ten year old child does not need to be there like that.
5. There was petting of a K-9 dog that was problematic. All S.C.I. staff and volunteers have to sign a six foot rule acknowledging they will not place themselves within six feet of a K-9. As it turned out the dog that was being

- petted was a detection dog and not a K-9 patrol dog. (See interview of C/O David West.)
6. Warden Johnson was not comfortable with the general interaction with staff by Representative Atkins.
 7. Warden Johnson stated Representative Atkins walked in the direction of the Code 11. Representative Atkins really had no business responding to the code, as a legislator, because of injuries or just being a witness in a possible future litigation.
 8. Representative Atkins did not need to respond to the cell and apparently talk to the Inmate after the Inmate was changed out into orange.

Warden Johnson was asked if restrictions should have been placed on Representative Atkins and his son after the capstun incident. Warden Johnson said, "There could have been, maybe there should have been."

Warden Johnson was questioned on how staff treat special visitors and Legislators. He agreed there is an intimidation factor when dealing with the special visitors and Legislators. Warden Johnson agreed that a blue shirt and some white shirts would not tell these people what to do even though they have the authority to do so within the prison.

Warden Johnson confirmed that a rumor had surfaced that a video had been made of Representative Atkins' visit with his son on February 18, 2011. By the time the information was received, it was too late to access the video system and make a copy. The video system had already written over that date and the footage was not retrievable. Warden Johnson stated there was an attempt at the time to determine who made the copy of the video. A check was also made to determine if there were any incidents that were of concern in the Receiving Room that needed to be addressed. Warden Johnson assigned Institutional Investigator Earl Messick to look into the rumors regarding the video. Investigator Messick could not confirm either way if a copy had been made. Additionally, there was nothing found when he reviewed the events in Receiving that caused any obvious concerns that needed to be addressed by the Warden.

Warden Johnson stated he did not receive any phone calls about the visit and assumed that everything went well.

With the fact that it was only rumored that the video was copied, there was no action taken regarding the security of the video system. (There are new security policies that have been instituted since the video has become public.)

The S. C. I. Policy for visitations of Legislators etc. is in the process of being changed. (See the attached rough draft.)

Warden Johnson was asked if after seeing all the circumstances of the visit, would he have made different decisions. He stated in retrospect he would not

have approved the visit because of everything that surrounded it and due to what appears to be the improprieties that occurred in the Receiving Room with the staff and the supervisors.

Warden Johnson agreed that the policy in place has no restrictions relating to Legislators, law makers, etc. Warden Johnson stated the policy is being reviewed and restrictions are being considered.

Interview: Deputy Warden Linda Valentino
September 20, 2012 10:14 a.m.
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned from the above interview.

Deputy Warden Valentino was asked how she became involved in the decision making for the requested visit of Representative Atkins' son. She stated that she was in Warden Johnson's Office when the telephone call came in from Representative Atkins. Initially, Representative Atkins was talking about how professional staff were in dealing with an incident he (Atkins) had witnessed in the facility. Representative Atkins then stated he would like to bring his son in to visit the facility.

Deputy Warden Valentino was asked if Representative Atkins mentioned which incident he had viewed that caused him to reference their professionalism. She said, "No." Deputy Warden Valentino stated she was not on the telephone with Representative Atkins, that part of what she is telling writer is from Warden Johnson.

Deputy Warden Valentino stated Warden Johnson told Representative Atkins that a waiver had to be signed, that a tour guide had to be assigned, and certain areas would be restricted. Representative Atkins was fine with the restrictions.

Deputy Warden Valentino was present when S/Lt. Harris, the on-coming Watch Commander, was briefed on the assignment. S/Lt. Harris was assigned to get the waiver and was told to assign a tour guide.

Deputy Warden Valentino was asked to list the restrictions noted to Lt. Harris for the tour. Harris was to have the waiver signed, assign a tour guide, and not to go into typically restricted areas. She indicated the Infirmary, Medium, and Key Alcove were okay and not to go onto the housing units.

Deputy Warden Valentino was asked if there was any restriction placed on Representative Atkins that he was to remain with his son at all times. She stated not that she remembers. Deputy Warden Valentino stated she assumed that they would be together.

Deputy Warden Valentino was asked if she knew of any other time Representative Atkins was at the facility and if any incident had taken place. She said, "Yes, two days prior; an incident happened on one of the Housing Units." The video from the Receiving Room Camera was copied which showed Representative Atkins being present in the Receiving Room. Deputy Warden Valentino assumed this was the incident to which Representative Atkins was referring when making comments about professionalism of the staff.

Deputy Warden Valentino was asked if Warden Johnson selected Lt. Wise as the escort for Representative Atkins. She said, "No, S/Lt. Harris made the choice."

Deputy Warden Valentino was asked what is expected of a tour guide. She stated the perception is that the escort meets the individual at the front counter and greets them. The escort takes them throughout the tour, answers any questions and then brings them back out.

Deputy Warden Valentino was told that on this visit Representative Atkins was at the prison for several hours. She was asked if this was anticipated. Deputy Warden Valentino said, "I don't think a time frame was ever mentioned."

Writer stated that with the policy in place at that time Representative Atkins could stay as long as he wished. Deputy Warden Valentino replied, "Yes."

Deputy Warden Valentino was asked about the Inmate visitations. She stated there are fifteen tables in the visitor's room. Each Inmate is allowed three visitors each. The room could potentially have fifteen (15) Inmates and forty-five (45) visitors in the room at the same time. There are two officers assigned to the visitor room.

Deputy Warden Valentino was asked about the Receiving Room staffing on the 4-12 shift. She indicated there are four officers assigned to the Receiving Room with two additional rovers available.

Deputy Warden Valentino was asked to identify the difference between the Visitor Room and Receiving Room security. She stated the Receiving Room is the hub of the prison. All new commitments arrive through the Receiving Room. The individuals are unknown as to how they will react upon arrival. Also, if anything happens on the Housing Units, the Inmate is taken to the Receiving Room to be cleaned up after capstun use. The Inmate is then changed out into orange and moved to the Behavior Modification area which is part of Housing Unit #4. All new commitments are seen by a nurse who does a medical intake.

Deputy Warden Valentino was asked about the showering of the Inmates in the Receiving Room. The Inmates are to be undressed within the shower and then changed out within that same area after taking their shower. They are not to be

undressed outside of the shower. If the officers are following procedure, the Inmate is not subject to being seen while undressing or dressing.

Deputy Warden Valentino was asked about the Nurses station in Receiving. Writer asked how much you can see in the office and how much can be heard in the office. She stated she had done a mini study as to how much you could hear and see because of an incident that was reported by one of the nurses. The view is limited and you can not hear much of what is going on in the room from the counter area in Receiving. The investigation was conducted to determine if it was possible to see or hear what the nurse reported. The study proved the statement given by the nurse was not accurate and you could not hear or see what was being reported.

Deputy Warden Valentino was asked if she documented this study in any way. She said, "No."

Deputy Warden Valentino was asked if after the capstun incident, should staff have done anything different security wise. She stated they should have removed Atkins and his son from the area.

Deputy Warden Valentino was asked if it would surprise her to know that staff from the rank of Lieutenants and below felt Atkins was a Representative and they could not direct him to do anything. She stated that it does not surprise her at all. She believed staff were intimidated by his being a Representative and would not direct him in any way, they were just there. Deputy Warden Valentino stated she believed this is part of the problem.

Deputy Warden Valentino agreed the only way to change the mind set of staff is to receive direction from the Warden on dealing with this type of visitor. She added that direction is coming by changes to policy.

Interview: S/Lt. Tracey Harris
September 19, 2012 12:55 p.m.
Union Representative Waived
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned from the above interview.

S/Lt. Harris was asked if he had a conversation with Warden Johnson regarding the pending tour for Representative Atkins and his son. He said, "Yes."

S/Lt. Harris was asked the content of the conversation regarding the tour. S/Lt. Harris stated it was basically Warden Johnson informing him that Representative Atkins was coming in with his son. Harris was to obtain a waiver and assign a supervisor to accompany them.

S/Lt. Harris was asked if he was aware of the age of the child prior to their arrival. He said, "No." He was not aware of his age until he (Harris) saw him and asked. S/Lt. Harris was asked if there were any limitations placed on the visit after knowing the age of the son. He stated he believed the Representative and his son were at the facility for a tour.

S/Lt. Harris was asked who he assigned as supervisor. He stated Lt. Marvello Wise was assigned and he asked Lt. Billy Edwards to assist if Lt. Wise needed any help. Lt. Billy Edwards was a team leader and asked to help out when available.

S/Lt. Harris stated that sometime during the shift Lt. Wise informed him that she felt like she was a baby sitter and did not appreciate it. The next day Lt. Wise informed S/Lt. Harris that she took Representative Atkins' son over to Multi-Security building without the Representative. She was instructed by Representative Atkins to go without him. S/Lt. Harris apologized to Lt. Wise and told her she should have told him and he would have instructed Mr. Atkins to remain with his son.

S/Lt. Harris was asked if he was aware of any security issues in taking the son to Maximum Security. S/Lt. Harris said, "No." He stated they would have been going into count at the time and all Inmates would be locked down.

S/Lt. Harris was asked if he passed this information on to the Warden in reference to the son being escorted without his father. S/Lt. Harris believed he may have in general conversation, but he could not be sure.

S/Lt. Harris was asked if he notified Receiving that Representative Atkins and his son were visiting their area. S/Lt. Harris said, "No." He did tell Lt. Wise they may be going to the Receiving Room, but S/Lt. Harris was not sure where Representative Atkins intended to visit. The only area to his knowledge that was not to be visited was Medium.

S/Lt. Harris was asked if given hindsight, would he make any changes. S/Lt. Harris stated he would ask more questions as to why the son was present. Other than that, Representatives and other visitors come into the prison all the time.

Interview: Lt. Marvello Wise
September 19, 2012 11:32 a.m.
Union Representative Antoine Ford
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned from the above interview.

Lt. Wise stated she was assigned to escort Representative Atkins and his son and was told to stay with him during the tour. She stated she was not given any specifics or restrictions regarding his visit. Lt. Wise stated she received no time limit for the tour.

Lt. Wise was asked what she believed she was to do during the tour. She stated she believed she was to take him anywhere he wanted to go and stay with him until he left. Lt. Wise stated when she began the tour with Representative Atkins; she did not know where Representative Atkins wished to take his son.

Lt. Wise was asked if she stayed with him the entire time. She said, "Pretty much." Lt. Wise stated they were on Housing Unit #4 when she asked Representative Atkins if he was ready to walk around the compound with his son. Representative Atkins told her, "Take him, take him; its okay." Representative Atkins remained on Housing Unit #4 while Lt. Wise took his son on the compound to the Multi-Security Building on the other side of the compound as she was instructed by Representative Atkins.

Lt. Wise was asked if there were any security issues in taking the son to M.S.B. She said, "No, it was Code Red lockdown."

Lt. Wise was asked if she remembered where she first met Representative Atkins and his son. She said, "No."

Lt. Wise was asked where she took Representative Atkins during the tour. She stated she did not take him anywhere. He was in Housing Unit #4 and Receiving only. She followed him.

Lt. Wise was asked if she responded to the capstun incident which occurred in the Pre-Trial hallway. She stated that she did not remember responding until she saw the video on Delaware on Line.

Lt. Wise remembered Representative Atkins behind her when she turned around in the hallway.

Lt. Wise was asked if she saw any security issues after the Capstun incident. She said, "No."

Lt. Wise was asked that if he (Atkins) had not been a politician, is there anything she would have done differently. She stated that she really could not say; had he not been a politician he would not have been there.

Lt. Wise was asked if she was present when Representative Atkins walked over to the cell where the Inmate was located after being changed into orange. She stated she was behind the counter.

Lt. Wise was asked where she positioned herself in the Receiving Room. She stated she was seated behind the counter most of the time. From time to time she would move to the outside area of the counter, because of her height; she would not always be in view of the cameras. Lt. Wise stated she stayed with Representative Atkins and his son until 11:00 p.m.

Lt. Wise was asked if she found it uncommon that he was there that long. She stated she felt it was uncommon that he came in at that time of day anyway. Lt. Wise stated she was ticked off from the beginning being assigned to him.

Lt. Wise was asked again if she would have done anything different. She said, "No, he is a politician and he has been in before, a lot; that wasn't his first time that week coming in. Lt. Wise could not understand why she was assigned to him this time. See agreed it was assumed it was because of the child.

Lt. Wise said, "Representative Atkins did not go on a tour that night, he stayed pretty much in the Pre-trial area; he went from Housing Unit #4 to the Receiving Room where he pretty much stayed the entire night."

Interview: Lt. Billy Edwards
September 19, 2012 12:07 p.m.
Union Representative Milton Morozowich
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned during the above interview.

Lt. Edwards was asked if he was assigned to Representative Atkins. He said, "No, Lt. Wise asked me to assist and I told her no." Lt. Edwards stated S/Lt. Harris did not ask him to assist.

Lt. Edwards stated Representative Atkins came into the prison more than once that week. He stated that the staff was not happy about babysitting him.

Lt. Edwards was asked if his presence took away from his security duties. He said, "Pretty much."

Lt. Edwards was not aware of any limitation placed on Representative Atkins during the tour.

Lt. Edwards was asked, as Lieutenants in charge would he/they put limitations on him (Atkins). He stated there was a lot of confusion because of his position.

Lt. Edwards agreed that if he (Edwards) saw something that was wrong, he (Edwards) would not have corrected it because of Atkins' position.

Lt. Edwards was asked if he felt that he had authority over Representative Atkins, what would he have done differently. He said, "Not let him in."

Lt. Edwards stated Representative Atkins had been in the prison two or three times that week. He said, "Each time, he went to Housing Unit #4 and Receiving, he never went on the compound; some staff believed it was just him (Atkins) visiting his friends."

Lt. Edwards stated Atkins was escorted around mostly by C/O McCary. McCary was pretty much the person Atkins saw each time.

Lt. Edwards was asked what business Representative Atkins had on Housing Unit #4. He stated that every time he (Edwards) saw Atkins, Atkins was talking with officers. Lt. Edwards stated that the Inmates were locked down while maintenance was being done on the unit.

The interview was concluded and then Lt. Edwards wanted to add the following:

Lt. Edwards remembered a statement which he (Edwards) paraphrased. Edwards stated he (Edwards) responded to Housing Unit #4. Atkins was speaking with C/O Steve Marsh. Atkins made a statement which Lt. Edwards believed was meant for him to hear. Edwards paraphrased the statement saying that Atkins said, "No one below Warden could dictate his movement or what he was doing or whether he could be there."

Lt. Edwards was asked if he repeated the statement to anyone at the time. He said, "No." Lt. Edwards was asked if he was pissed about the statement. He said, "No, he really did not get pissed about it." Lt. Edwards believed what Atkins said might be the way it was. He believed that Atkins had Carte' Blanche.

At the conclusion of the second recorded interview with Lt. Edwards, he handed writer a copy of 404 Report #34038 dated 02/12/2012 11:55 am. The 404 report reads as follow:

"While sitting in the pretrial Lieutenants office I, Lt. B. Edwards was approached by [REDACTED] to burn a DVD of an incident that took place in the receiving room. The DVD was to capture Representative John Atkins and his son entering the Receiving room up until the time that they exited the receiving room. After the DVD was made I [REDACTED] mail box. EOR."

Lt. Edwards informed writer he made a copy of the DVD referenced above within a day or so after Representative Atkins' visit.

(The source of the video and how it came to be in the possession of the News Journal is not part of this investigation.)

Interview: Sgt. Allen Adams
September 20, 2012 09:26 a.m.
Union Representative Jeremy Blank
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned from the above interview.

On the evening of February 18, 2011 Sgt. Adams was the Receiving Room Sergeant.

Sgt. Adams was asked if he remembered when Representative Atkins and his son came back to the Receiving Room. He stated he was not sure. Sgt. Adams was asked if he would have logged their presence in the Receiving Room logbook. He stated the Receiving Room logbook is for commitments, releases, transfers, and any incident of capstun, etc. Sgt. Adams stated he doubts that he would have logged Representative Atkins and his son in the log.

Sgt. Adams was asked if he was aware of Representative Atkins' position as Representative and a member of the Corrections Committee. He said, "Yes."

Sgt. Adams was told it appeared in the video that Representative Atkins was walking around as he pleased. He was asked if it was Representative Atkins choice to walk around or was he being directed by him (Adams). Sgt. Adams said, "I am not in a position to tell him anything."

Sgt. Adams was asked, why not. He said, "Because he is a rep., it is not my position; if someone is going to come in here and tell him anything, I think it would be the Warden, Deputy Warden, or Administrator."

Sgt. Adams was asked if Representative Atkins was involved in any of the activities in the Receiving Room. He said, "No, he was just an observer."

Sgt. Adams was asked if at any time he (Adams) believed Representative Atkins and/or his son were in any jeopardy at any time. He said, "No."

Sgt. Adams was asked if he knew what the conversation was between Atkins and the Inmate in the cell after the Inmate was changed out into orange. Sgt. Adams stated that he remembered Atkins over there observing, but was unaware of the conversation.

Sgt. Adams was asked if he knew Representative Atkins personally. He said, "No." Sgt. Adams stated that he knows who he is, but nothing socially.

Sgt. Adams was asked if he had anything further. He said, "Blue Shirts are not in charge of people coming in."

Writer said, "You are in charge of your area." Sgt. Adams said, "I am in charge of my area, but when somebody makes a decision; they can come into my prison for a tour." He said, "What am I suppose to do?"

Sgt. Adams was told that even if it is the Governor who comes into his (Adams) area of charge, and there is a security issue, that he (Adams) is in charge; not the Governor. Sgt. Adams stated that he does not see it that way.

Interview: C/O Steven Marsh
09/26/2012 06:34 a.m.
Union Representation Waived
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned in the above interview.

C/O Marsh was asked about the paraphrased statement from Lt. Edwards that Representative Atkins made on Housing Unit #4. C/O Marsh stated that he could not remember the statement. He said that he only remembered that Representative Atkins asked how things were going. C/O Marsh said the statement could have been said, but it does not stick out in his mind. Marsh implied that if it was said, it would have stuck out.

C/O Marsh was asked if he (Marsh) is a friend of Representative Atkins. He said, "No."

C/O Marsh was asked if Representative Atkins' son was present on Housing Unit #4. He said, "Yes." C/O Marsh believed the son was there the entire time. He did not remember Lt. Wise taking the son off the Housing Unit.

C/O Marsh was questioned if Representative Atkins had the attitude he could do what he pleased. C/O Marsh said, "No, he had the attitude of a visitor."

Interview: Cpl. Peter Dirks Jr.
E-Mail September 27, 2012 2:33 p.m.

"Mr. Tigue, This email is in reference to the information you requested from me on September 27, 2012 at approximately 1405 hrs about the general guidelines used for turning in a completed Logbook. The general guidelines that I was taught and always used have been to list an end date on the front of the logbook and then place the logbook in the Business Office Mailbox (Helen Lowman). This mailbox is an unsecure mailbox. If at all possible I will give the Logbook directly to one of the Business Office staff that pick up the mail and logbooks from the mailbox. The Logbooks that are missing were placed in the Business

Office Mailbox because I closed them out and put them in there. The only reason I recall this is because the 2 logbooks were condensed into a single new logbook for ease of information lookups.”

Thank you, Cpl. Peter R. Dirks Jr.

(Log books are legal documents and should be treated as such.)

Interview: C/O David West K-9
September 26, 2012 10:22 a.m.
Waived Union Representation
Investigator Mike Tigue
Audio disk is available

The following is a summary of the information learned from the interview with C/O West.

C/O West was asked about his duty assignment on the evening of February 18, 2011. He stated he was working his single purpose drug dog that evening.

C/O West stated that the dog is not an attack dog and is not aggressive in any way. He said the dog is used routinely to sniff the visitors coming into the facility. The dog is in close proximity with the visitors. Often, the children visitors would pet the dog. The handler encourages the officers to pet the dog often to insure the dog stays friendly. There has never been an incident with any staff or visitor with this dog.

On February 18, 2011 Representative Atkins’s son was allowed to pet the dog. The dog was not off of his leash.

The other two dogs in the Receiving Room were patrol dogs. These dogs were not in close proximity to Representative Atkins or his son.

C/O West was asked if he has ever had any incident with this dog in any way shape or form. C/O West stated when he (West) comes to work, he brings two dogs. He brings in a drug dog and a patrol dog. C/O West walks both dogs together when entering the prison. He tries to get the dogs to interact as much as possible at home. C/O West stated both dogs are males. He stated that there was one incident at home, one day he was feeding them and they became aggressive with each other. C/O West separated them and was between the drug dog and his food. He said that the dog nipped the back of his arm. C/O West stated this was the only incident of aggression towards a person.

Interview: Captain Michael Atallian
October 3, 2012
Union Representative Waived
Investigator Mike Tigue

Audio disk is available

The following is a summary of the information learned from the interview with Captain Atallian.

Captain Atallian was the Watch Commander on February 16, 2011 when Representative Atkins came into the Institution. He stated he assigned an escort to stay with Representative Atkins. Captain Atallian could not remember the name of the person he assigned. He stated he would not have allowed a visitor to wonder unescorted.

Writer contacted the Lieutenants who were working on the evening of February 16, 2011. Each were asked if they were assigned to escort Representative Atkins on the evening of February 16, 2011.

The Lieutenants working on the 4-12 shift on February 16, 2011 were Lt. Alfred Beckett as the Perimeter Lieutenant; Lt. Damon Ball as the Administration Pre-Trial Lieutenant; Lt. Dean Blades as the Key Building Lieutenant; Lt. Michael Maans as the Medium Building Lieutenant, and Lt. Marvello Wise as the Maximum Security Building Lieutenant.

None of the Lieutenant's remembered being assigned as an escort for Representative Atkins on February 16, 2011. One Lieutenant stated he could not remember any escorts being assigned to Representative Atkins on any other visit prior to February 18, 2011.

Captain Atallian was relieved as Watch Commander prior to the incident on Housing Unit #4 on February 16, 2011 and had no additional information relating to the events of that evening visit.

Interview: Representative John Atkins
October 18, 2012 09:30 Am
Investigator: Mike Tigue
Internal Affairs Director: Ron Drake

The interview took place at Representative John Atkins' home in Millsboro, Delaware. The following is a summary of that interview.

Jared had asked his father if he could go with him on a visit to the prison. Representative Atkins and his wife made a parental decision to allow the visit if authorized.

Representative Atkins indicated during the interview that he (Representative Atkins) had visited the Sussex Correctional Institution at least fifty (50) times over the years. The first visits were in his early teens. Representative Atkins stated he grew up with many of the Correctional Guards and knew a lot of them by

first name. He had been in the prison enough times witnessing the professional conduct of the officers. He believed he and his son would be safe to enter the prison. Representative Atkins stated if he believed differently they would not have gone.

Representative Atkins contacted Warden G. R. Johnson for permission to bring his son for a visit to SCI. Warden Johnson did not make a decision right away but called Representative Atkins back later approving the visit.

Warden Johnson stipulated a signed waiver and an escort would be assigned for the visit. No additional limitations were given at that time. Additional limitations were stated by Warden Johnson directly to the Watch Commander and the Escort Lt. Wise.

There was no time limit placed on the visit. Representative Atkins stated he asked his son more than once during the visit if he was ready to leave. Jared's response was no. Representative Atkins implied this was the reason the visit lasted as long as it did.

Representative Atkins could not remember if he signed the log book when they arrived on February 18, 2011. He had signed the book on other visits but could not be sure for this date. Representative Atkins stated if the Correctional Staff asked him to do something he did it. If he was told to sign the book he did.

Representative Atkins could not be sure where in the prison he first met with his escort Lt. Wise. He did remember it was after going through the security check.

He was asked where he visited during his tour. He could not be specific relating that he has visited on numerous occasions and could not be sure where he visited on any specific date. He did believe he was on a housing unit and in Receiving.

He was asked if his son was on the housing unit. He could not remember.

He was asked if he directed Lt. Wise to take his son on to the compound. He said he asked her to do so but did not direct her. He did stay on the housing unit while Lt. Wise left with his son.

Representative Atkins did follow the responding staff to the Code 11. Representative Atkins stated the incident happened in the hallway near Receiving. Atkins responded but did not get all the way to the incident but close enough to see what was happening. Atkins did not get involved in the incident nor did he hinder any of the responding staff.

Representative Atkins did go to the cell and observe the Inmate after the cap stunning. Atkins did not have a conversation with the Inmate but just observed the effects of the capstun the Inmate was displaying.

Representative Atkins stated his son was restricted to staying behind the counter after they were there a short time. He only came from behind the counter to go to the bathroom. He was restricted by Representative Atkins and by the Receiving Room staff.

Representative Atkins was aware the Inmate who was walking to the bathroom and in close proximity to Jared was a trustee/building worker. Correctional staff were also very close to Jared at the same time.

Representative Atkins was asked the location of his escort while in the Receiving Room. Atkins could not remember specifically but did remember she was there for most of the time. He could not state if she left for any reason.

Representative Atkins was asked when Lt. Wise left at 23:00 hrs was he and his son assigned another escort. Representative Atkins stated there were several staff present but was not aware if one was assigned to him and his son. Atkins and his son left shortly there after.

Representative Atkins was asked about the pizza. He stated he did not know who purchased the pizza or who brought it into the prison. He and his son were offered by staff to share in the pizza and they did.

Representative Atkins was asked whether an escort was assigned to him each time. Atkins stated there was a staff member with him each time. He was not allowed to wonder around by himself nor would he have wanted to do so for his own safety.

Representative Atkins was asked about the incident which occurred on Housing Unit #4 on February 16, 2011. Atkins witnessed the incident from the lower level of the Housing Unit. Atkins was by the podium on the first floor and the incident occurred on the upper level of the Housing Unit.

Representative Atkins did follow the officers from the Housing Unit to the Receiving Room behind the escorted Inmate. Atkins did not witness any mistreatment of the Inmate during the movement by staff.

Representative Atkins was not familiar with either of the Inmates involved in the incidents of 02/16/11 or 02/18/11. The rumor was that one of the Inmates involved was a suspect in criminal activity in Representative Atkins' neighborhood/district. Atkins denied any knowledge of such information about either of the Inmates.

Writer had not listened to the Delaware 105.9 radio broadcast where Susan Monday interviewed Representative Atkins regarding his visit to SCI with his son. Representative Atkins played the recorded interview for writer and Director Drake. The radio interview brought out much of the same information representative Atkins reported above.

On October 15, 2012 a letter was sent to Mr. David Ledford, Executive Editor for The News Journal Media Group.

The letter was a request for writer to view the video in its entirety and any other related documentation that may be in the possession of The News Journal Media Group. (See attached copy.)

Conclusion:

On October 15, 2012 writer sent a letter to Mr. David Ledford, Executive Editor of The News Journal Media Group, requesting to view a full copy of the video in question and any documents in possession of The News Journal in order to conduct a complete investigation. As of the date of this report, this investigator has not had the opportunity to view the full video or any Department of Corrections documents in the possession of The News Journal. Viewing the entire video/documents may or may not change the conclusion.

Bureau of Prisons' Policy 8.48 Dated December 21, 1998 section V.A.2. Visitors must enter through main lobby or EDC entrance. **All visitors must be escorted by staff from the lobby/waiting area to any area of the facility past the security doors.** This section is not included in the revised policy 8.48 dated September 22, 2010.

Sussex Correctional Institution's Policy, Control of Institution Visitors, Chapter One Number 015 dated December 1, 2008 was the policy in place for Sussex Correctional Institution on February 16 & 18, 2011. **The policy does not call for an escort from the lobby/waiting area to any area of the facility past the security doors.**

Department of Correction, Bureau of Corrections Policy 8.48 dated September 22, 2010 does authorize Professional Visitors, Legislators, to enter any Department of Correction Facility without notice at any time. **The policy does not provide any direction on protocol for the visit/access. This access authorization does not extend to a professional visitor's family member(s) or his/her guest.**

Sussex Correctional Institution Policy 8.28 dated December 1, 2008 is to establish a procedure for the security control of visitors to SCI. **It does not specifically mention "Professional Visitors". The policy does not call for**

an escort from the lobby/waiting area to any area of the facility past the security doors.

Policies are put in place to direct staff regarding a specific rule. The policy should give staff a clear course of conduct to implement the rule. All circumstances can not be addressed by policy and a policy can not cover all possibilities. Representative Atkins' visit with his son does not fall into any of the visitor policies that were in place on February 18, 2011.

Professional visitors Section H was not added until September 22, 2010 and signed by the current Bureau of Prisons Chief, Michael Deloy.

Professional visitors are unique and the visitor rules directing staff's course of conduct do not apply. A separate policy relating specifically to professional visitors should be considered. The authority to direct professional visitors needs to be made clear. The identity of the professional visitor can/should determine the level of supervision needed for the visit and who shall be assigned as escort.

The Warden of any institution does have the authority to grant access to the institution to anyone he/she deems appropriate.

Warden G. R. Johnson discussed the visit with his Deputy Warden, Linda Valentino. Warden Johnson decided to grant Representative John Atkins' request for a tour within the Sussex Correctional Institution accompanied by his son. Warden Johnson stipulated that a release waiver be signed and that an escort would be assigned. The tour was not to go to the Medium Building, or Housing Units. There were no additional limitations placed on the tour. There was no time limit imposed for the tour.

Warden Johnson could have/should have presented the Watch Commander with a more structured tour/visit for implementation by staff. Staff should have had prior notice to each area to be visited to insure additional security for the visit.

The tour escort, Lieutenant Marvello Wise, was told by Watch Commander S/Lt. Tracy Harris to stay with Representative Atkins for the duration of the tour. The tour was not to go to Medium Building. She was unaware she was not to take them to the Housing Units.

Lieutenant Wise voiced her dislike of the assignment to the Watch Commander, referring to the assignment as babysitting.

Representative Atkins and his son arrived at SCI at 1910 hours and departed at 2320 hours according to the logbooks.

Lieutenant Wise was with Representative Atkins and his son at one point as viewed in the video. Lt. Wise is not with the Representative and his son when

they first come into the Receiving Room. It is unknown at what point Lt. Wise joins the Representative and his son.

The brief video depicts Lt. Wise positioned behind the control counter in the Receiving Room near Representative Atkins' son. The son's movement was restricted to that area. Lt. Wise is seen responding to the Code from that area. The Video does not capture her returning to the Receiving Room until much later in a different presentation. It is unknown if she returned earlier or not from the provided videos.

Lieutenant Wise is small in stature and the camera view of the area she was seated would be limited at best. The only way to determine the length of time Lt. Wise was not behind the counter is to view the entire video. The entrance to the Receiving Room was captured by the video and should reflect the entire time Lt. Wise was in escort.

Lt. Wise stayed with Representative Atkins until 2300 hours. Representative Atkins left SCI at 2320 hours according to the logbooks. A second escort was not assigned when Lt. Wise left at 23:00 hrs.

Representative Atkins and his son were on Housing Unit #4 when Representative Atkins asked Lieutenant Wise to take his son out onto the compound. Lieutenant Wise questioned his statement and Representative Atkins assured her it would be alright. Lieutenant Wise then took Representative Atkins' son across the compound to the Multi-Security Building. The Institution was in a state of lock down at the time because of count. No Inmate movement was permitted.

Lieutenant Wise did not approve of taking the child without his father, but believed she had to follow the Representative's direction. Representative Atkins remained on Housing Unit #4 while Lieutenant Wise left with his son.

Lieutenant Wise should have contacted the Watch Commander for direction. The Watch Commander was not made aware of the Representative's request until the next day.

In the Receiving Room, Representative Atkins' son is in close proximity to an Inmate dressed in white. This Inmate is identified as a "Building Worker" commonly known as a "Trustee".

A code eleven was called. Representative Atkins did **walk** from the Receiving Room following the responding staff in the direction of the code. Witnesses confirm Representative Atkins did not go all the way to the location of the code. Representative Atkins did not become involved in the code and did not get in the way of any responding staff. Representative Atkins did return to the Receiving

Room ahead of the officers who were moving the Inmate involved in the code to the Receiving Room.

Representative Atkins should not have been allowed to respond to the code.

The Inmate involved in the code has since been released from the custody of the Department of Correction. When writer attempted to contact him, it was learned that he had passed away on September 17, 2012.

Lieutenant Billy Edwards stated Representative Atkins made a remark implying that only the Warden could direct him. This was not confirmed by C/O Steve Marsh. Confirmed or not, it was the general consensus of staff that they could not tell Representative Atkins what to do even though they had full authority to do so when it came to security issues.

After the Inmate from the code was secured in the Receiving Room holding cell, Representative Atkins and his son could have been removed from the area safely. Lieutenant Wise should have/could have moved them, but Lieutenant Wise did not believe she had the authority to direct the Representative. Lieutenant Wise should have contacted the Watch Commander for direction.

The Watch Commander, at the time of the code, Lieutenant David Vinson, gave no thought to removing Representative Atkins and his son from the area after the code.

Lieutenant Wise responded to the code, leaving Representative Atkins' son behind the counter with an officer. She did not need to respond to the code. There was sufficient manpower responding. It is assumed she responded out of instinct. She should have remained with the child.

Correctional Officer Training

During the Interpersonal Communication Course (IPC) and Use of Force training in the academy, Correctional Officers are trained in positioning and posturing in respect to an Inmate.

Positioning and posturing are repeated in a variety of topics in different ways so that an officer has the understanding of the risk that increases when their positioning (proximity) gets closer with offenders. Posturing is referred to how they present themselves in different situations (stand erect and slightly incline forward when they need to hear the offender, demonstrate a professional, safe demeanor).

During CEIT (Use of Force) topics, staff learn more about safe distancing, their positioning when the reactionary gap gets smaller, to be aware of surroundings

at all times, and assess situations that will aid them in making critical decisions when controlling a situation.

All correctional staff receives the above training. The Receiving Room staff made the decision that Representative Atkins and/or his son were not in any danger from any of the Inmate(s) in the Receiving Room. There are no policies to govern such a decision. The officer relies on his/her training and common sense as their guide.

The son was restricted to behind the counter for the majority of the visit.

All indications are that Representative Atkins was being treated by staff as one of the staff and not as a visitor, because of their familiarity with him.

Representative Atkins went to the cell after the capstun incident. The Inmate had been handcuffed and was still experiencing the effects from the capstun. The Inmate was no danger to anyone.

K-9 responded to the Receiving Room. There were two Patrol Dogs and one Detection Dog. Representative Atkins' son was allowed to pet the Detection Dog. This is not uncommon for visitors to be allowed to pet this type of dog.

A question arose about Representative Atkins' son having any view of the shower area. If policy was being followed as reported by staff, the Inmate would be undressing and dressing inside the shower area. From the vantage point of both Representative Atkins and his son, the Inmate would not have been in view. (See attached photographs.)

Logbooks for February 18, 2011 were examined. The Visitor Logbook which is located at the main entrance could not be found. Policy requires all visitors to sign this logbook prior to entry into the prison. The procedure for terminating a logbook was described by Cpl. Peter R. Dirks Jr. Logbooks are legal documents and should be handled as such. The procedure should be reviewed to insure security of all logbooks.

The video recording process area on February 18, 2011 was unsecure. Since the surfacing of the video in question, access to the recording device has been secured and restricted.

Sussex Correctional Institution Security and Control Policy #015 Control of Institution Visitors is in the process of change to include professional visitors.

Allegations that on February 16, 2011, Representative Atkins participated in assisting staff in the handcuffing an Inmate during an incident on Housing Unit #4 was not substantiated and denied by Representative Atkins.

Information was rumored that the Inmate involved on February 16, 2011 was a suspect in burglaries in Representative Atkins' neighborhood. The Delaware State Police were contacted and the Inmate(s) involved could not be connected to any criminal behavior in Representative Atkins' neighborhood. Representative Atkins denied any such knowledge about these Inmates.

The Inmate involved on the February 16, 2011 incident above did make allegations of mistreatment by staff during his removal from Housing Unit #4 to the Receiving Room. Representative Atkins is seen on the Receiving Room Video following that Inmate into the Receiving Room apparently from Housing Unit #4. Representative Atkins stated he observed no misconduct on the part of the officers during the Inmates' movement to the Receiving room.

Logbook entries, shift schedules, and Policies and Procedures for locations visited are available for review, but are not included with this report.

Recordings of all interviews are available on D.O.C. shared drive I. A. Recordings under S.C.I. 2012.

It is Writer's opinion that Warden Johnson did not anticipate Representative Atkins' visit would be as lengthy as it was. Representative Atkins has a familiarity with S.C.I. and staff from having visited numerous times in the past without incident. He has had the ability to assess and evaluate any possible threats to his son's safety.

Representative Atkins' visit with his son was authorized by Warden Johnson and as such, did not violate any existing policy or procedure.

Writer feels that some staff's familiarity with Representative Atkins caused them to treat him almost as if he were a fellow staff member by not restricting his movement to specific areas. This, in Writer's opinion, is a training issue in reinforcing staff's authority and responsibilities when dealing with any visitor. This was manifested in the comments made by several staff members in that they did not feel they could exercise any authority over Representative Atkins.

Writer did not find any egregious misconduct by staff that would warrant disciplinary action. Remedial action should be referred to Bureau Chief Deloy and Warden Johnson to redefine future visits of this nature.

/MT

Attachments

xc: Commissioner Carl Danberg